

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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| In Re: W.R. GRACE & CO., et al., Debtors. | § § § § § § | Chapter 11 Jointly Administered Case No. 01-01139 (JKF) |
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**FEE AUDITOR'S FINAL REPORT REGARDING
FEE APPLICATION OF PACHULSKI STANG ZIEHL & JONES, LLP
FOR THE TWENTY-NINTH INTERIM PERIOD**

This is the final report of Warren H. Smith & Associates, P.C., acting in its capacity as fee auditor in the above-captioned bankruptcy proceedings, regarding the Twenty-Ninth Interim Fee Application of Pachulski Stang Ziehl & Jones, LLP (the "Application").

BACKGROUND

1. Pachulski Stang Ziehl & Jones, LLP ("Pachulski"), was retained as counsel to the Debtors. In the Application, Pachulski seeks approval of fees totaling \$164,819.00 and expenses totaling \$116,896.26 for its services from April 1, 2008 through June 30, 2008 (the "Application Period").
2. In conducting this audit and reaching the conclusions and recommendations contained herein, we reviewed in detail the Application in its entirety, including each of the time and expense entries included in the exhibits to the Application, for compliance with 11 U.S.C. § 330, Local Rule 2016-2 of the Local Rules of the United States Bankruptcy Court for the District of Delaware, Amended Effective February 1, 2008, and the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330, Issued January 30, 1996 (the "Guidelines"), as well as for consistency with precedent established in

the United States Bankruptcy Court for the District of Delaware, the United States District Court for the District of Delaware, and the Third Circuit Court of Appeals. We served an initial report on Pachulski, and received a response from Pachulski, portions of which response are quoted herein.

DISCUSSION

3. In our initial report, we noted that during the Application Period, Timekeeper CAK, billing at an hourly rate of \$185.00, spent 1.30 hours for \$240.50 in fees on work which appeared to be filing. The time entries are as follows:

| | | | | | |
|----------|-----|----------------------------|------|--------|----------|
| 04/04/08 | CAK | Maintain document control. | 0.20 | 185.00 | \$37.00 |
| 04/09/08 | CAK | Maintain document control. | 0.10 | 185.00 | \$18.50 |
| 04/24/08 | CAK | Maintain document control. | 0.10 | 185.00 | \$18.50 |
| 05/02/08 | CAK | Maintain document control. | 0.10 | 185.00 | \$18.50 |
| 05/15/08 | CAK | Maintain document control. | 0.10 | 185.00 | \$18.50 |
| 05/22/08 | CAK | Maintain document control. | 0.20 | 185.00 | \$37.00 |
| 05/30/08 | CAK | Maintain document control. | 0.10 | 185.00 | \$18.50 |
| 06/16/08 | CAK | Maintain document control. | 0.10 | 185.00 | \$18.50 |
| 06/18/08 | CAK | Maintain document control. | 0.10 | 185.00 | \$18.50 |
| 06/18/08 | CAK | Maintain document control. | 0.10 | 185.00 | \$18.50 |
| 06/25/08 | CAK | Maintain document control. | 0.10 | 185.00 | \$18.50 |
| | | | 1.30 | | \$240.50 |

On the issue of adjusting rates downward, we find persuasive the opinion expressed by the Honorable Judith K. Fitzgerald in *In re USG Corporation*, Case No. 01-2094 (JKF), Transcript of Proceedings, August 29, 2005, pp. 49-52, wherein the Court opined that \$160.00 per hour for file maintenance, even if performed electronically, was too high, and that \$60.00 to \$100.00 per hour for this service was more appropriate. We have been consistent in recommending that filing be billed

at no more than \$80.00 per hour. Thus, we asked Pachulski to explain why this time should not be compensated at a reduced hourly rate. Pachulski responded:

CAK is a paralegal that works primarily on our firm's fee applications. She does drafting, review and editing of the bills and fee applications. She used a catch-all category but her actual duties are more substantive than that. Accordingly, we believe the time is appropriately billed and the rates we charged.


We note that Timekeeper CAK billed other time entries which were clearly for fee application preparation, and we did not object to these time entries. While we understand Pachulski's response, it does not establish to our satisfaction that Timekeeper CAK's time entries for "maintain document control" were for fee application preparation. Thus, we recommend the time be compensated at the hourly rate of \$80.00, with a corresponding reduction of \$104.00 in fees.

CONCLUSION

4. Thus, we recommend approval of \$164,715.00 in fees (\$164,819.00 minus \$104.00) and \$116,896.26 in expenses for Pachulski's services for the Application Period.

Respectfully submitted,

WARREN H. SMITH & ASSOCIATES, P.C.


By: 
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FEE AUDITOR

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served by First Class United States mail to the attached service list on this 20th day of November, 2008.


Warren H. Smith

SERVICE LIST

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